

Notice of Allowability

Application No.

09/927,891

Examiner

Brian Ensey

Applicant(s)

FEELEY ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/16/06.
2. ☒ The allowed claim(s) is/are 1,3-21,30,31,33-40,45-52 and 54-60 renumbered 1-45.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


CURTIS KUNTZ
SUPERVISORY PATENT EXAMINER
BIOLOGY CENTER 2600

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Craig Cox on August 23, 2006.

The application has been amended as follows:

In the claims:

In claim 1, line 4, --in communication with a microphone port located outside the ear canal of the user-- has been added after "circuitry".

In claim 1, line 5, --including a speaker electrically connected to the processing circuitry and-- has been added after "component" and before "being".

Claim 2 has been canceled.

In claim 3, line 1, "claim 2" has been deleted and --claim 1-- has been added after "of".

In claim 31, line 4, --in communication with a microphone port located outside the ear canal of the user-- has been added after "circuitry".

In claim 31, line 5, --including a speaker electrically connected to the processing circuitry and-- has been added after "component" and before "being".

Claim 32 has been canceled.

In claim 33, line 1, "claim 32" has been deleted and --claim 31-- has been added after "of".

In claim 45, line 7, --in communication with a microphone port located outside the ear canal of the user-- has been added after "circuitry".

In claim 45, line 12, --the completely-in-canal component including a speaker electrically connected to the processing circuitry and-- has been added after "user," and before "wherein".

The following is an examiner's statement of reasons for allowance: The present invention is directed to a behind the ear (BTE)/ completely in canal (CIC) auditory device and modular connector system. Independent claim 1 identifies the uniquely distinct feature of a BTE component comprising a module including processing circuitry in communication with a microphone port located outside the ear canal of the user, a CIC component including a speaker electrically connected to the processing circuitry and a connector detachably connected to the BTE or CIC component, the connector including a portion of the connector within the ear canal of the user and the connector being sufficiently rigid for insertion and removal of the CIC component from the ear canal of the user in combination with all the further disclosed limitations of claim 1. Independent claim 31 identifies the uniquely distinct feature of a BTE component comprising a module including processing circuitry in communication with a microphone port located outside the ear canal of the user, a CIC component including a speaker electrically connected to the processing circuitry and a means for physically coupling the BTE to the CIC component, said means for coupling including a portion of said means within the ear canal of the user and said means for coupling being sufficiently rigid for insertion and removal of the CIC

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component from the ear canal of the user in combination with all the further disclosed limitations of claim 31. Independent claim 45 identifies the uniquely distinct feature of a plurality of BTE components each BTE component comprising a module including processing circuitry in communication with a microphone port located outside the ear canal of the user, and a plurality of connectors to physically couple the BTE component to a completely in canal component wherein the CIC component including a speaker electrically connected to the processing circuitry, the connector including a portion of the connector within the ear canal of the user and the connector being sufficiently rigid for insertion and removal of the CIC component from the ear canal of the user in combination with all the further disclosed limitations of claim 45. The closest prior art, Toht (US 2930856) teaches a hearing aid with a BTE component and an ear mold insertable within the ear cavity coupled by a connector comprising a flexible stiffener, but fails to teach the connector may be used for insertion or removal of the ear mold; Reiter et al. (US 560621) teaches a hybrid BTE/CIC hearing aid with an extractor separate from the flexible connector; Shennib et al. (US 57001348) teaches an articulated hearing device with a rigid connector to allow insertion of a CIC component in the ear canal, but fails to teach a BTE component; Pulvinage et al. (US 5987146) teaches a BTE hearing device with a speaker in the ear canal, but fails to teach a microphone port outside the ear canal or a detachable connector system; and Taenzer et al (US 6631196) teaches a BTE communication system with an ultrasonic transducer in the ear canal, but fails to teach a CIC component or detachable connector system. The prior art fails to anticipate or render the independent claims obvious.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Ensey whose telephone number is 571-272-7496. The examiner can normally be reached on Monday - Friday 6:30 AM - 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, Va. 22313-1450

Or faxed to:

(571) 273-8300, for formal communications intended for entry and for informal or draft communications, please label "PROPOSED" or "DRAFT".

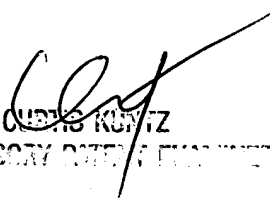
Hand-delivered responses should be brought to:

Customer Service Window
Randolph Building
401 Dulany Street
Arlington, VA 22314

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BKE
August 23, 2006


CURTIS KUNTZ
SUPERVISORY OFFICE / EXAMINER